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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

HILLDUN CORPORATION,

Plaintiff,

v.

N:PHILANTHROPY LLC; YVONNE NIAMI;  
and HOLDING COMPANY OF BEVERLY  
HILLS, LLC,

Defendants.

Case No. 23-cv-03178 (AS) (BCM)

**DECLARATION OF  
ROBERT E. MALCHMAN IN  
SUPPORT OF PLAINTIFF'S  
APPLICATION FOR COSTS  
AND ATTORNEYS FEES**

ROBERT E. MALCHMAN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am member of the bars of the State of New York and of this Court, of counsel to the law firm of Allegaert Berger & Vogel LLP ("ABV"), and Lead Counsel to Plaintiff, Hilldun Corporation ("Hilldun") in the above-captioned action (the "Action"). I make this Declaration in support of Hilldun's application for contractual attorneys' fees and litigation costs against the defendants, N:Philanthropy LLC ("NPL"), Yvonne Niami ("Niami"), and Holding Company of Beverly Hills, LLC ("HCBH," collectively with NPL and Niami, the "Defendants"). I make this



Declaration based on personal knowledge, or on information and belief based on ABV's books and records, and on the documents filed in this action.

2. This Court, the Honorable Arun Subramanian, U.S. District Judge, in entering a default judgment order against Defendants, found that "Plaintiff is also entitled to costs and attorneys' fees under the parties' agreement. Dkt. 1-1 § 10." Default Judgment Order, entered September 22, 2023 (Dkt. No. 32), at 3. Judge Subramanian directed an inquest to determine those amounts. *See id.*; Order of Reference to a Magistrate Judge, entered September 22, 2023 (Dkt. No. 33), at 1.

3. As of the date of this Declaration, Hilddun has paid the \$34,655.92 charged by ABV through October 11, 2023, which includes \$33,190.55 in time charges and \$1,465.42 in costs. Attached hereto as Exhibit 1 is a running total of invoices and payments, followed by the individual invoices reflecting time-keepers, billing rates, dates, hours, disbursements and amounts. I am the sole attorney time-keeper. My billing rate is \$630 per hour, and the billing rate for the paralegals working on this matter is \$175 per hour. These rates are the same for all matters on which I have worked that commenced in 2022 or 2023.

4. I was admitted to the New York bar in 1990 and to the bar of this Court in 1993. I have been of counsel to ABV since 2009. I was General Counsel to PlusFunds Group, Inc., during its restructuring in 2006 and in solo practice from 2006 to 2009, mostly continuing my work for PlusFunds on an outside basis during its liquidation. From 1991 to 1997, I was associated with the New York litigation department of Gibson, Dunn & Crutcher LLP and was a staff attorney there from 1997 (when I began teaching) to 2005. I have been full-time faculty teaching legal research and writing at SUNY Buffalo (1997-98), Georgetown University Law Center (1998-99), and St. John's University School of Law (1999-2003); and adjunct faculty at



the Benjamin N. Cardozo School of Law (2007-20). I am a 1985 graduate of the Massachusetts Institute of Technology with a degree in Political Science, and a 1989 graduate of the University of Michigan Law School. After graduation, I served as a law clerk to the Honorable David A. Nelson, U.S. Circuit Judge for the Sixth Circuit.

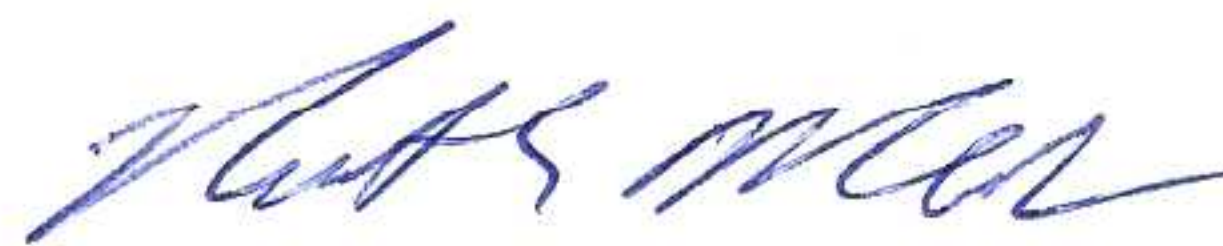
5. The other ABV timekeepers are all paralegals, who have individually informed me of the following, which I believe to be true:

- Katherine S. Filosa has been a paralegal at ABV since July 2023. She graduated from Barnard College of Columbia University in 2023. She has a bachelor's degree in political science and human rights with a minor in science and public policy.
- Eleanor Morgan has been a paralegal at ABV since July 2023. She graduated from Sarah Lawrence College in 2023 with a bachelor's degree in Economics.
- Jonah Sacks has been a paralegal at ABV since June 2023. Prior to that, he worked in animation production at ShadowMachine Studios in their film department. He is a 2022 graduate of Bates College with a bachelor's degree in History, as well as Rhetoric, Film, and Screen Studies.

6. Based on my experience and on the conduct of this action by ABV, I respectfully submit that the fees and costs incurred are reasonable and should be awarded to Hilddun as provided in its contract with NPL, and guaranteed by Miami and HCBH.

I declare under the penalty of perjury that the foregoing facts are true and correct.

Dated: Brooklyn, New York  
October 12, 2023




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ROBERT E. MALCHMAN